

CITY OF BATTLE CREEK  
COMMUNITY SERVICES DEPARTMENT – PLANNING and ZONING

**NOTICE**  
**PLANNING COMMISSION MEETING**

**Date:** Wednesday, February 27, 2019  
**Time:** 4:00 P.M.  
**Place:** City Commission Chambers  
Room 301, City Hall

1. Call to Order
2. Attendance
3. Additions or Deletions to the Agenda
4. Approval of Minutes - January 23, 2019 meeting minutes
5. Correspondence
6. Public Hearings/Deliberations
  - A. **#Z-02-19 Conditional Rezoning:** Petition from Battle Creek Services LLC, 2510 S. Telegraph Rd Suite 298, Bloomfield Hills, MI 48302, requesting a Special Use Permit to allow self-storage at 30 E. Columbia Avenue, Parcel 0063-00-620-0, zoned C2 General Business District, pursuant to Planning and Zoning Code Chapter 1290-01(b)(21).
7. Old Business
8. New Business
  - A) Capital Improvement Plan 2020-2025
  - B) Zoning Ordinance/Map Scope and Timeline
  - C) Non-Motorized Transportation Plan Scope and Timeline
9. Comments by the Public
10. Comments by the Staff and Commission Members
11. Adjournment

Respectfully Submitted,  
Christine M. Zuzga, AICP  
Executive Secretary, Planning Commission

**BATTLE CREEK CITY PLANNING COMMISSION  
MEETING MINUTES**

**Wednesday, January 23, 2019**

**1. Call to Order:**

Chairperson Daniel Buscher called the meeting to order at 4:00 p.m.

**2. Attendance:**

**Members Present:**

Daniel Buscher	Cody Newman
Joe Sobieralski	John Stetler
Robert Whitfield	Lynn Ward Gray
John Godfrey	Susan Baldwin

**Members Excused:** Jim Hopkins

**Staff Present:**

Glenn Perian, Senior Planner, Planning Dept.  
Eric Feldt, Planner  
Marcel Stoetzel, Deputy City Attorney  
Laura Rounds, Customer Service, Planning Dept.

**3. Additions or Deletions to the Agenda:**

**4. Approval of Minutes: Meeting Minutes December 12, 2018**

**MOTION WAS MADE BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER STETLER, TO APPROVE THE PLANNING COMMISSION MEETING MINUTES FOR DECEMBER 12, 2018. ALL IN FAVOR, NONE OPPOSED.**

**5. Correspondence: Glenn Perian noted the letter that was drafted at the request of the Zoning Board of Appeals on the issued of Tattoo Parlors being allowed in the General Business District.**

**6. Public Hearings and Deliberation/Recommendations:**

- A) #Z-01-19 Conditional Rezoning:** Petition from AMERCO Real Estate 2727N Central Ave Ste. 500 Phoenix AZ 85004. Requesting Conditional rezoning to allow a Moving and Self-Storage Facility in a "C-6 Major Highway Interchange Business" property is located at 5740 Beckley Rd parcel# 0095-00-090-0. The Conditional Rezoning is requested pursuant to Planning and Zoning Code.

*Chairperson Commissioner Buscher asked if anyone else from the public wished to speak; seeing none, he closed the public hearing and would entertain a motion.*

**MOTION WAS MADE BY COMMISSIONER GODFREY, SUPPORTED BY COMMISSIONER GRAY, TO APPROVE THE REQUEST FOR CONDITIONAL REZONING WITH THE CONDITIONS RECOMMENDED IN THE STAFF REPORT FOR THE MOVING AND SELF STORAGE FACILITY IN A C6 MAJOR HIGHWAY INTERCHANGE BUSINESS DISTRICT. ALL IN FAVOR, NONE OPPOSED.**

**B) Election of Officers for Year 2019:**

MOTION WAS MADE BY COMMISSIONER SOBIERALSKI FOR THE OFFICERS TO REMAIN THE SAME FOR THE YEAR 2019 AS THEY WERE IN THE YEAR 2018 (COMMISSIONER BUSCHER CHAIRMAN, COMMISSIONER HOPKINS VICE CHAIR, CHRISTINE ZUZGA SECRETARY), SECONDED BY COMMISSIONER BALDWIN. ALL IN FAVOR, NONE OPPOSED.

**Comments by the Staff and Commission Members:** Commissioner Baldwin asked if there are any upcoming projects. Commissioner Godfrey asked about the status of CVS located on the corner of Columbia Ave and Capital Ave.

**Adjournment:** Chairperson Commissioner Buscher adjourned today's meeting. All in favor meeting adjourned at 4:12 P.M.

Respectfully Submitted: Christine Zuzga, Planning Manager, Planning Dept



## Battle Creek City Planning Commission

### Staff report for the February 27, 2019 meeting

**To:** Planning Commissioners

**From:** Christine M. Zuzga, AICP, Planning Manager

**Subject:** Petition S01-19, a request for a special use permit for 30 E. Columbia, Parcel #0063-00-620-0, to allow the conversion of 60,255 s.f. to indoor self-storage.

---

#### **Summary**

A petition from Battle Creek Services LLC requesting a Special Use Permit to allow self-storage in a C2 General Business District at property located at 30 E. Columbia Ave Parcel# 0063-00-620-0.

#### **Background/Property Information**

The subject parcel is 5.88 acres in size and located southeast of the intersection of Columbia Avenue and Capital Avenue, S.W.. The parcel includes Battle Creek Plaza, a 83,915 s.f. multi-tenant commercial building that currently houses Rite Aid Pharmacy as its east anchor and 309 parking spaces.





The property is being purchased, and the potential new owner, the applicant of this special use permit request, is looking at redevelopment opportunities.

The climate controlled self-storage would occupy 70% of the building and would be located entirely within the existing building. Hours of operation would be 6am to 10pm, Sunday thru Saturday, which is consistent with commercial uses allowed at this building and in this zoning district. The number of units will be determined by architectural plans that will be completed pending approval of the special use permit.

Along with the proposed indoor self-storage and Rite Aid, the applicant is proposing to develop eight small retail tenant spaces ranging from 1,200 s.f to 1,500 s.f. in size. These will be located centrally, facing Columbia, to maintain a retail presence along the Corridor.

Once approved, the applicant is required to submit official site plans for the entire project to the City for review to ensure the development complies with all other sections of the zoning ordinance, including but not limited to parking spaces, landscaping, stormwater management, etc. Additionally, building plans and permits will be required by the City.

### **Applicable Ordinance Provisions**

The special use permit application is requested pursuant to Planning and Zoning Code Chapter 1290-01(b)(21) which allows for “mini-warehouse developments on a site of not less than two acres”. For this application, all other elements of the request comply with the zoning district in which the parcel is placed, and therefore the special use permit is only required for the self-storage portion of the project.

The Planning Commission has recently addressed a conditional rezoning request for the former Toys-R-Us property on Beckley. In that instance, in addition to wanting to use the property for self-storage, the applicant was seeking to allow outdoor storage and display which is not allowed in the C-6 zoning

district. Rather than requiring the applicant to go through two separate processes, including a special use permit and a zoning ordinance amendment that would change the limitation of outdoor storage and display, staff recommended a conditional rezoning as it would be specific to that property and their specific request, and was the most efficient means of approval.

### **Public Hearing and Notice Requirements**

As required by the Zoning Enabling Act of 2006, as amended, a public hearing notice was published in the Battle Creek Shopper's Guide on Thursday, February 7, 2019 and notices of the public hearing were also sent by regular mail to 67 owners and occupants of properties located within 300 feet of the subject parcel. To date, the Planning Department has received one caller that had questions, but no concerns nor opposition.

### **Neighborhood Outreach**

This parcel is located in Neighborhood Planning Council #11, and the applicant has been provided the chair contact information. Their next meeting is February 27, the night of Planning Commission, and it is expected that the request will be reviewed with that group at that meeting.

The request was reviewed by the City Economic Development Team which includes representative from the City Manager's office, Department of Public Works, Economic Development Fund, Planning, and Inspections, and all were supportive of the proposed adaptive reuse of the property.

### **Basis For Determination**

As a special use, the Planning Commission is charged with reviewing each Special Use Permit request to determine any effects the proposed use would have on the Master Plan as well as on the character and development of the neighborhood. The ordinance and enabling legislation allow the Planning Commission and the City Commission to impose any conditions upon the request that would ensure the general objectives of the zoning ordinance are met and to preserve property values in the neighborhood.

The request shall be reviewed using the following standards listed in Chapter 1290.04 Basis for Determination (for Special Use Permits):

- (a) The use will be harmonious with and in accordance with the general objectives of the Master Plan.
- (b) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood.
- (c) The use will not be hazardous or disturbing to existing or future neighboring uses.
- (d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (e) The use will be adequately served by essential public facilities and services, such as streets, highways, police and fire protection, drainage, refuse disposal and schools, or the persons or agencies responsible for the development shall be able to adequately provide such services.



- (f) The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- (g) The use will not create activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors.
- (h) The use will be consistent with the intent and purpose of this Zoning Code.

**Analysis and Recommendation**

Staff has reviewed the application and finds that it meets the requirements for submittal and is considered complete. Staff further finds the request consistent with the general standards listed in 1290.04, as outlined herein:

(a) The approval of a special use permit for a portion of this building for self-storage will be harmonious with and in accordance with the general objectives of the City of Battle Creek Master Plan. The Land Use Plan of the Master Plan has this property designated as “Regional Commercial” as it is located along a major corridor that supports a high volume of local and regional traffic and will provide a variety of commercial tenants and amenities for local and regional customers. Furthermore, it is meant to allow high intensity uses and the largest scale of development.

Goals in the Master Plan include the adjusting land use regulations to match the changing character and community needs as well as identifying vacant or underutilized sites that could be developed to catalyze nearby investment. National market changes have resulted in large scale retail becoming largely obsolete, and the request as submitted allows for adaptive reuse and rehab of a large parcel that has had difficulty with occupancy.

(b) The proposed use will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of the neighborhood. The self-storage will be interior and self-contained, and appear similar as other commercial spaces in the vicinity. The approval would prompt building rehab and improvements that would improve that part of the corridor.

(c) The use of this property will not be hazardous or disturbing to existing or future neighboring uses as it would likely generate less traffic than if the entire building were occupied as originally constructed, and of similar hours of operation as other uses allowed in the zoning district.

(d) The use will be a substantial improvement to property in the immediate vicinity and to the community as a whole as a vacant large building along a key commercial corridor will be renovated and activated with new tenants. Additionally, there is a lack of small commercial tenant spaces throughout the City, and the renovation will include a mix of tenant spaces that will allow a variety of uses.

(e) Though traffic is not anticipated to significantly increase as a result of the proposed use, Columbia is a State trunkline could accommodate additional traffic. Additionally, there is adequate public infrastructure and utilities in place and no additional needs are required for this use.

(f) There will be no City expenses associated with the maintenance and improvements to the property, and therefore, the use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(g) There will be no activities, processes, materials, equipment or conditions of operation that will be detrimental to any person, property or the general welfare by reason of an excessive generation of traffic, noise, smoke, fumes, glare, vibrations or odors. Any noise associated with the use will be the result of typical activities found in a residential neighborhood.

(h) The use will be consistent with the intent and purpose of this Zoning Code in that the facility will be subject to compliance with all relevant sections of the zoning ordinance and codified ordinances, including noise, noxious vegetation, and property maintenance.

**Therefore, as the request meets the general standards listed in Chapter 1290.04 as outlined above, planning staff recommends that the Planning Commission recommend to the City Commission approval of Special Use Permit Petition S-01-19, a request for a special use permit for 30 E. Columbia, Parcel #0063-00-620-0, to allow the conversion of 60,255 s.f. to indoor self-storage, with the following conditions:**

- 1. Individual storage units will be accessed from inside the building. Storage units shall not include any dwelling units, home occupations, medical/recreational marihuana, or any other use not allowed by zoning -2 district.**
- 2. Parking lot improvements will be subject to an approved site plan by the City and will be required to come into compliance with all existing ordinances, including but not limited to landscaping, sidewalk, parking spaces, drive lanes, etc.**
- 3. The approval of this request is directly tied to the proposed use and elements of the proposed use as provided for by the applicant in the application. Any changes contrary to that which is included on the application would require review and approval by the Planning Commission and City Commission.**
- 4. All necessary approvals, including site plan review and any required permits shall be obtained, and maintained if applicable, from the appropriate agencies, including but not limited to the State of Michigan, Department of Public Works, and Inspections Department prior to Certificate of Occupancy.**
- 5. Pursuant to Chapter 1232.01 (a), no change in the use or occupancy of land or in the use or occupancy of an existing building shall be made, nor shall any new building be occupied for any purpose, until a certificate of occupancy has been issued by the Zoning Administrator or his or her agent. Such a certificate shall state that the new occupancy complies with Building and Zoning Codes.**
- 6. Pursuant to Chapter 1290.02 (e), certificates of occupancy for special uses shall be valid for a period established by the City Commission or as long as the use is established and maintained in conformity with the plans submitted and approved. Occupancy permits shall expire after one year if the use is not under construction or maintained. For good cause shown and upon written application, the Planning Commission may extend a special use permit for six months.**

The Planning Commission can add additional conditions to those listed above in the staff recommendation. The Planning Commission may also upon deliberation, choose an alternative action from the following alternatives:



- A1: Postpone the project for specific reasons, with agreement from the applicant;
- A2. Articulate revised rationale of the general standards and/or conditions to recommend to the City Commission Approval OR Denial of the subject application.

**Attachments**

The following information is attached and made part of this Staff report:

- Special Use Permit petition Form and Supplemental Information (Petition #S-01-19)

2-02-19



## City of Battle Creek

Community Services – Planning and Zoning Division

City Hall • 10 N. Division Street, Ste. 117 • Battle Creek, Michigan 49014

Ph (269) 966-3320 • Fax (269) 966-3555 • [www.battlecreekmi.gov](http://www.battlecreekmi.gov)



### SPECIAL USE PERMIT Application

Petition No. \_\_\_\_\_

Date Received: \_\_\_\_\_

0063-00-620-0

#### APPLICANT

NAME: BATTLE CREEK SERVICES, LLC

ADDRESS: 2510 S. TELEGRAPH RD SUITE 298, Bloomfield Hills MI 48302

PHONE: 248-564-3900 FAX: 248-855-1794

EMAIL: PCAGENTS@COMCAST.NET

#### OWNER (if different from applicant)

NAME: BECKER-DIETZ ASSOCIATES (BATTLE CREEK PLAZA)

ADDRESS: 2075 W. BIG BEAVER RD TROY MI 48084 STE. 100

PHONE: 248-341-3343 FAX: 248-646-3744

EMAIL: LEGGRIMM@DIETZPROPERTYGROUP.COM

**\*\*If the applicant is not the property owner, a letter signed by the owner agreeing to the Special Use Permit must be included with the application.**

#### EXISTING CONDITIONS

Address(es) of property for which the request is being sought: \_\_\_\_\_

30 E COLUMBIA AVE.

Current use of the property: RETAIL PLAZA

List existing structures on the property and the approximate age of each. \_\_\_\_\_

COMMERICAL RETAIL PLAZA

APPROXIMATELY AGE 40-45 YEARS.

Has property involved ever been the subject of a previous application? If yes, please list each one and the date the request came before the Planning Commission.

UNKNOWN

## PROJECT DESCRIPTION

What is the proposed use of the property that warrants the special use permit? \_\_\_\_\_

MIXED USE - RETAIL & CLIMATE CONTROL MINI-STORAGE

Please list all activities that will take place on the property if the special use permit were approved?

MIXED USE - RETAIL & CLIMATE CONTROL MINI-STORAGE  
RENOVATION

How many employees currently work on the property? How many will be added if the special use permit is approved, and what days/times will they be onsite? 5 CURRENTLY -

WITH RENOVATION WE ANTICIPATE MORE RETAILERS/STORAGE  
EMPLOYEES TO BE BETWEEN 15-20. RETAIL HOURS.

Will the approval of the special land use necessitate changes to the property, i.e. building construction, additional parking, driveways, fencing? If yes, please provide a list of property improvements that will be associated with the special use permit. YES, BUILDING IMPROVEMENTS TO

ACCOMMODATE USE. SUCH AS EXTERIOR LIGHTING,  
OVERHEAD DOORS, EXTERIOR PAINTING ETC.

What are the proposed hours of operation for the special use? Please indicate if the special land use will be temporary, seasonal, or long term in nature, providing dates and timeframes if applicable:

6 AM TO 10 PM MON-SAT.

SUNDAY PROBABLY SIMILAR -

PERMANENT NATURE -

## STANDARDS FOR APPROVAL

Chapter 1290 Special Uses and Land Development lists standards that will be reviewed by the Planning Commission and City Commission and the request for special use permit will only be approved if these standards are met. Provide factual and supportive evidence that your application meets each of these standards. Additional sheets may be attached if necessary.

Will the special land use be designed, constructed, maintained, and/or operated in a manner harmonious with the character of adjacent properties and the surrounding area? ☒ Yes ☐ No

will improve all of surrounding  
properties & businesses

Will the special land use change the character of adjacent properties and the surrounding area?

☐ Yes ☒ No



Will the special land use be hazardous to adjacent properties or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or properties?

☐ Yes ☒ No

Will the special land use be a substantial improvement to property in the immediate vicinity and to the community as a whole? ☒ Yes ☐ No

will improve ALL surrounding properties  
& businesses and will provide a needed  
services for the AREA

Will the special land use place demands on public facilities or services in excess of current capacity?

☐ Yes ☒ No

Will the special land use produce excessive traffic, noise, smoke, fumes, or glare? ☐ Yes ☒ No

#### SUBMITTAL REQUIREMENTS

Each request requires the following items to be submitted along with the completed application; incomplete applications will not be forwarded to the Planning Commission.

1. Payment of a non-refundable \$600.00 filing fee, made payable to the City of Battle Creek.
2. An affidavit authorizing an applicant to act on behalf of the owner if the petitioner is not the owner.
3. Legal description of subject property and a list of all deed restrictions.
4. Property Site Plan as outlined in "Special Use Permit, Information and Procedures".

#### APPLICANT SIGNATURE

By signing this application, the applicant hereby declares that all answers given herein are true to the best of their knowledge, and confirms that all information required for submission of a special use permit have been submitted. Furthermore, the applicant confirms that they have thoroughly read "Special Use Permit, Information and Procedures" and agrees to comply with all requirements and procedures for special use permit.

  
Name

1-31-19.  
Date

January 28, 2019

City of Battle Creek  
Planning and Zoning Division  
City Hall 10 N. Division Street  
Suite 117  
Battle Creek, MI. 49014

Regarding address: 30 E Columbia AVE.

This letter serves as an affidavit from Paul Dietz (Member) of Battle Creek LLC & Becker-Dietz Associates authorizing applicant, Battle Creek Services, LLC. & Manar Abbo (Member) to act on behalf of Battle Creek LLC for purposes of application for "Special Use Permit."

Please call me if you have any further questions.

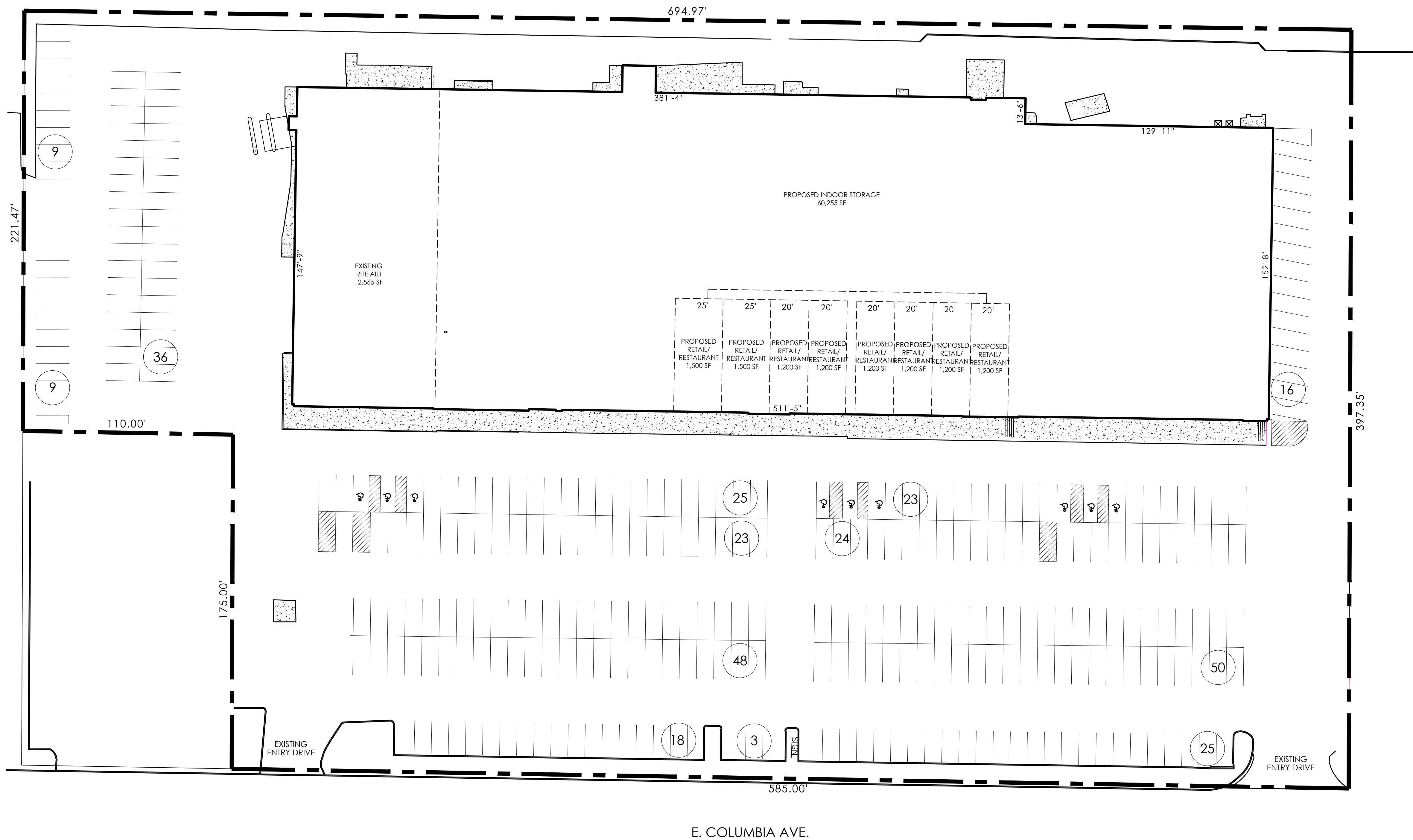
Sincerely,

A handwritten signature in blue ink, appearing to read "Paul Dietz", is written over the printed name.

Paul Dietz  
Dietz Property Group  
2075 W. Big Beaver, Ste. 100  
Troy, Michigan 48084  
Cell: 248-761-3221  
Email: [pdietz@dietzpropertygroup.com](mailto:pdietz@dietzpropertygroup.com)

# BATTLE CREEK PLAZA

## CONCEPTUAL SITE PLAN COLUMBIA AVENUE BATTLE CREEK, MICHIGAN



SITE / BUILDING / PARKING DATA:	
<b>GENERAL SITE INFORMATION:</b>	
ZONING	C - COMMERCIAL
LAND AREA	5.88 ACRES
PARCEL NO.	00063-00-620-07610-15-238-0
<b>GENERAL SHELL BUILDING INFORMATION:</b>	
EXISTING BUILDING:	83,915 SF
RITE AID:	12,565 SF
PROPOSED RETAIL:	111,137 SF W/ CORRIDORS
STORAGE:	60,255 SF
USE GROUP:	M (MERCANTILE), B (BUSINESS), A-2 (ASSEMBLY)
<b>PARKING DATA:</b>	
PARKING SPACES PROVIDED:	309 SPACES



ABRO DESIGN GROUP, INC.  
30600 NORTHWESTERN HWY.  
SUITE 310  
FARMINGTON HILLS, MI. 48334  
P. 248-254-3834 F. 248-671-2772

WWW.ABRODESIGNGROUP.COM

**PROJECT:**  
PLAZA BATTLE  
CREEK

COLUMBIA AVE.,  
BATTLE CREEK, MICHIGAN

**SHEET TITLE:**  
CONCEPTUAL SITE  
PLAN

DO NOT SCALE DRAWINGS  
USE FIGURED DIMENSIONS ONLY

**DATE:** 02.07.19  
**ISSUE:** CSP

THESE PLANS ARE THE EXCLUSIVE PROPERTY OF ABRO  
DESIGN GROUP, INC. THESE PLANS ARE NOT TO BE  
MODIFIED, REPRODUCED, CHANGED OR COPIED IN  
ANY FORM OR MANNER WHATSOEVER. NOR ARE THEY  
TO BE ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST  
OBTAINING THE EXPRESS WRITTEN PERMISSION  
CONSENT OF ABRO DESIGN GROUP, INC.

**PROJECT NO:**  
042418

**SHEET NO:**  
CSP



CONCEPTUAL SITE PLAN  
SCALE:

1" = 30'-0"

non-exclusive right and easement for pedestrian and vehicular (both commercial and non-commercial) passage in, on, over and across the Access Facilities on the BD Tract for the purpose of providing ingress and egress from the TVC Tract and the BC Tract to E. Columbia Avenue (the "**BD Access Easement**"). The Owner of the BD Tract reserves the right to build or construct any buildings, structures or improvements or to otherwise redevelop the BD Tract and modify the Access Facilities on the BD Tract, provided that neither the BD Tract Access Easement, nor its points of connection with E. Columbia Avenue shall be modified unless the modified locations continue to provide adequate access to and from E. Columbia Avenue, as the case may be, that are of substantially the same grade, width and visibility, and affords substantially the same convenience of access, as the former location.

D. **Permitted Users.** An Owner may grant the benefit of the cross-access easement(s) described in this Agreement to its tenants hereafter occupying any building or any portion thereof on its Tract, for the duration of such tenancy and to the agents, vendors, licensees, customers, employees and invitees of such Owner or tenant (collectively, the "**Permitted Users**"). Notwithstanding the foregoing, nothing in this section shall release an Owner from its obligations and responsibilities contained herein.

### 3. **PARKING AREAS.**

Nothing in this Agreement shall be construed or deemed to convey any rights to an Owner that would permit parking on another Owner's Tract. All future development of any other Tract, or any portion thereof, shall include the on-site construction of parking sufficient to satisfy the demands of its intended use as well as Laws pertaining to parking areas and parking requirements. No easements or agreements related to parking areas shall be granted or entered into by the Owners to third parties, which may invoke the application of Laws requiring cross parking within the Development.

### 4. **USE RESTRICTION.**

Subject only to the rights of current tenants and the terms of their respective leases listed on **Exhibit D** attached hereto and incorporated herein and subject only to the rights of such current tenants during such time as the lease agreements of such current tenants listed on **Exhibit D** remain in full force and effect with respect to of any portion of the BC Tract and the BD Tract, no part of the BC Tract or the BD Tract shall be used for any of the following uses: (i) pharmacy prescription department; (ii) drug store or retail pharmacy; (iii) retail health center or (iv) a Dollar Store (defined below). For purposes of this Agreement, "pharmacy prescription department" shall include the dispensing of prescription drugs by physicians, dentists, or other health care practitioners, or entities such as health maintenance organizations, except when the dispensing is in connection with treatment by said physician, dentist or other health care professional; "drug store" or "retail pharmacy" shall mean a store which sells prescription drugs which are required by law to be dispensed by a licensed pharmacist; "retail health center" shall include any "minute clinic," urgent care or emergency care facility or other similar use providing walk-in, non-traumatic medical services, but specifically excluding physician, dentistry, or other health care offices or practitioners that are separately operated and not located inside any retail store or establishment and a "Dollar Store" shall include a 99 cents store or "dollar" store which sells



general merchandise. Examples of a Dollar Store (without limiting such Dollar Stores only to those listed) are stores such as Fred's, Dollar Store, Dollar General, or Family Dollar.

5. **PROHIBITED USES.**

Except as otherwise set forth herein, a Tract shall be used for those uses permitted under the Laws provided, however, that no part of any Tract shall be used or occupied for the operation of any of the following: a massage parlor, but excluding a massage parlor such as a Massage Envy or similar type of operation and further excluding ancillary massage services performed by a licensed massage therapist that are a part of the operation of a beauty salon; a cinema, video store or bookstore selling, renting, or exhibiting primarily material of a pornographic or adult nature; an adult entertainment bar or club (sometimes referred to as being within the sex trade); a firearms shooting range or any other use which creates or causes excessive noise in violation of municipal ordinance then in effect; a flea market; a facility which performs on-site dry cleaning, an industrial warehouse (as to the BC Tract only), or a warehouse (as to the BD Tract only, provided that the existing building on the BD Tract may be used for internal mini self-storage purposes, so long as such use does not interfere with or impede in any way the full and unobstructed use of the BD Access Easement).

6. **MAINTENANCE AND TAXES.**

A. **Maintenance.** Each Owner shall be responsible for Maintenance, at its own cost, of its respective Tract, including the Easement Areas and Access Facilities located on its Tract, in accordance with Laws and otherwise in a good, clean and sanitary order, free from infestation from insects, rodents, vermin and other pests and otherwise in a condition comparable to other "first-class" commercial/retail properties located in Battle Creek, Michigan. For purposes of this Section 6(A)(1), "**Maintenance**" includes (but is not limited to) sweeping, washing and removal of trash, litter and refuse, removal of snow and ice from pavement, parking areas and walkways, painting and striping of parking areas, repair and replacement of paving as necessary, repair and replacement of utilities and drainage exclusively serving such Tract, maintenance of landscaped areas (including replacement and replanting), and maintenance and repair of lighting, fixtures, signage, directional signs, lines and markers. Paved areas shall be maintained in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall be comparable in quality, use, and durability. Garbage, trash, rubbish and other refuse, will be stored in covered containers or compactors and removed at regular intervals, not less than weekly, at such Owner's expense.

B. **Taxes.** The Owner of each Tract shall pay all taxes and assessments levied against its respective Tract which shall become due and payable after the date of this Agreement.

7. **RIGHTS OF MORTGAGEES.**

No provision of this Agreement shall in any way defeat or render invalid the lien of any mortgage or other security instrument entered into in good faith and for valuable consideration, whether presently in existence or hereafter recorded against any Tract, but any such lien shall be subordinate and subject to the provisions of this Agreement but not to any liens created by this Agreement; provided, however, that if any portion of any Tract is purchased in connection with a

## **Zoning Ordinance Update Timeline**

Preliminary Schedule (a year-and-a-half to two year process)

### **February**

Planning Staff Internal Meeting to determine responsibilities

- The ordinance has been piecemealed together since adoption and merger of the City and Township
- Design standards and the language and terms used throughout the ordinance are outdated making it difficult to administer and apply to the newly adopted Master Plan
- Numerous amendments have been made to the ordinance that sometimes are not consistent with the rest of the code or are duplications of other sections in the code
- The code is designed to perpetuate suburban development and provides limited opportunity for mixed use or creative developments. The code is not very flexible to new development styles.
- The code is not very user-friendly and provides very little, if any, graphics to improve the readability or explain what a certain section of the code really means.

-Designate Lead Staff-Present to PC to announce intentions to update the code

-Appoint Planning Commissioners to be part of the Zoning Update Project Team (February PC meeting)-commit to at least one monthly meeting with team to go over progress of Chapter revisions. Advise Attorney's office of project/include Attorney on Team, appoint ZBA member to team

-Focus of keeping Rural and Suburban areas of the City primarily unchanged with focus of most of the changes to the code to be on Downtown, Main-streets (Columbia Ave, Capital Ave, Michigan Ave, North Ave, Emmet St) and Adjacent areas of the Main-streets to provide for more flexible uses and vibrancy

-Consider adding SUP uses to specific zoning districts. With each Ch. Review, refer back to SUP Ch. to determine what uses are appropriate to include in that zoning district

Continually consult with the Master Plan and zoning map during process and make adjustments to the zoning map as needed

### **March/April**

- Meet with Zoning Update Project Team to outline plan of action
- Notify NPC's of project
- Review and revisions of AG and Residential Chapters (Ag, R-1A, R-1B, R-1C, R-2, R-3A, R-3B, MDMF, HDMF). See what is working, where there are duplications, uses that needed to be added or subtracted from sections and, what Chapters can be combined with others (MDMF-HDMF).
- Review Ch 1230 (Definitions) to eliminate duplicates/inconsistencies within AG/R districts

- Move Ch 1286 (Accessory Bld), Ch 1292 (Home Occ) closer or into individual Ag/Res chapters to make the code easier to read
- Review Ch 1249 Prairieview Homes Overlay District to make sure it is still relevant and working
- Refer back to Master Plan to ensure continuity
- Refer back to Zoning Map to determine appropriate areas for AG and Res uses
- Review SUP Chapter to determine what uses are appropriate in Ag/Res zoning district
- Incorporate Chapters 1276 (Height), 1278 (Yard), 1280 (Coverage), 1282 (Area/Width), and 1283 (Siting Requirements) into each separate zoning district section with possible graphics/tables/etc.
- Make any adjustments to zoning map
- Review Ch. 1230 (Definitions) to eliminate duplicates/inconsistencies relating to Ag/R districts
- 

#### **May/June**

- Meet with Zoning Update Project Team to review work from previous month
- Review TB, O-1, C districts in conjunction with the Master Plan to determine what areas of the City are appropriate for stand-alone districts and what areas of the City should be transitioned to a more mixed use/flexible design district.
- Review SUP Chapter to determine what uses are appropriate in TB/O/and C districts
- Incorporate Chapters 1276 (Height), 1278 (Yard), 1280 (Coverage), 1282 (Area/Width), and 1283 (Siting Requirements) into each separate zoning district section with possible graphics/tables/etc.
- Make any adjustments to zoning map
- Review Ch. 1230 (Definitions) to eliminate duplicates/inconsistencies relating to O/C districts

#### **July/August**

- Meet with Zoning Update Project Team to review work from previous month
- Review Industrial districts in conjunction with the Master Plan to determine what areas of the City are appropriate for stand-alone districts and what areas of the City should be transitioned to a more mixed use/flexible design district
- Review SUP Chapter to determine what uses are appropriate in I zoning district
- Incorporate Chapters 1276 (Height), 1278 (Yard), 1280 (Coverage), 1282 (Area/Width), and 1283 (Siting Requirements) into each separate zoning district section with possible graphics/tables/etc.
- Make adjustments to zoning map
- Review Ch. 1230 (Definitions) to eliminate duplicates/inconsistencies relating to I districts
-

### **September/October**

- Meet with Zoning Update Project Team to review work from previous month
- Review Ch 1271 (Street Level Retail) to determine what areas of the City are appropriate for Mixed Uses and how this district can be expanded, where appropriate and consistent with the Master Plan.
- Review areas of the City that would fit into a newly created “Main Street” and “Adjacent Neighborhoods” zoning district to support the Downtown area to create nodes and/or neighborhoods supporting our more urban areas (Capital Ave, North Ave, Emmett St, and Michigan Ave). These areas would provide more flexible uses (mixed) with an emphasis on the “look” or “feel” of an area instead of specific uses. These areas are envisioned to have more of an emphasis on design standards rather than use restrictions.
- Make adjustments to zoning map
- Continue to review Ch 1230 (Definitions) to eliminate duplicates and inconsistencies

### **November/December**

- Meet with Zoning Update Project Team to review work from previous month
- Review the more specialized/specific sections of the code to determine relevance and proper placement within the code; Ch 1283 (Siting), 1289 (PURD), 1291 (Airport), 1293 (FY parking) 1295 (Adult Business), 1297 (Towers)
- Review Ch. 1230 (Definitions) to eliminate duplicates/inconsistencies relating to these chapters

### **January/February**

- Meet with Zoning Update Project Team to review work from previous month
- Review the most recently adopted/amended Chapters to determine relevance and effectiveness; Ch 1284 (Parking) 1285 (Landscape), 1287 (Urban Ag), 1288 (nonconforming), 1294 (SP), 1296 (signs), 1298 (fences), 1299 (Medical Marijuana)
- Review Ch. 1230 (Definitions) to eliminate duplicates/inconsistencies relating to these chapters

### **March/April**

- Meet with Zoning Update Project Team to review work from previous month
- Review remaining Chapters of the code; Ch 1230 (Definitions), 1232 (Administration) 1234 (ZBA), 1236 (Districts/Maps)

### **May**

- Meet with Zoning Update Project Team to review work from previous month
- Prepare documents for state required review process/comment period
- Compile final document for completeness and get document ready for PC/CC adoption

### **June**

- Meet with Zoning Update Project Team to prepare for PC adoption
- Have joint meeting with PC and CC
- Update NPCs

### **July/August**

- Meet with Zoning Update Project Team to prepare for PC adoption/make suggested revisions from PC/CC
- Final PC adoption

### **Sept/Oct**

- City Commission first reading/Adoption
- Completion of project

### **During the process we plan on several community engagement meetings**

- During the project kick-off
- At least 3 meetings during the process
- At the end of the project

**We also do not plan on having a “track changes” copy of the ordinance due to the magnitude of the project. We will be tracking both regulatory and clarifying changes**

# Master Planning Schedule

## 1) FEBRUARY [PRE-PLANNING: INTERNAL]

- ❖ Internal discussion w/ Planning staff to identify primary and support staff for:
  - Writing new plan and creating new images, putting plan together;
  - Managing meetings, presenting, note-taking;
  - Creating, distributing, collecting, and organizing surveys;
  - Managing around-town non-motorized transportation awareness, learning events, routes, pictures of routes and signage, etc.;
  - Creating website data, narrative, up-coming meetings
  - Creating GIS maps; and
  - Scheduling meetings for future months: NPCs, Kick-off Meeting, Closing Meeting, BAC, PC, and CC.
- ❖ Determine which sections of existing plan need updating

## 2) MARCH [PLANNING STEP]

- ❖ Discussions with Planning staff and other City departments of planning effort
- ❖ Inform PC, CC, and BAC of planning effort
- ❖ Gather contacts for various running, biking, kayaking, walking, etc. groups
- ❖ Schedule meetings for future months: NPCs, Kick-off Meeting, Closing Meeting, BAC, PC, and CC
- ❖ Schedule meetings w/ Schools for April, May discussions

## 3) APRIL [ACTION STEP: PUBLIC ENGAGEMENT]

- ❖ Distribute PSA about kick-off meeting, planning effort, and distribution of surveys
- ❖ Create and distribute paper and online surveys for general public, NPCs, relevant organizations, schools, etc.
- ❖ Late April: Kick-off Meeting to inform public what, why, and how we're updating plan

## 4) MAY [ACTION STEP: PUBLIC ENGAGEMENT/ EVENTS]

- ❖ National Bike Month, local functions
- ❖ Staff discusses non-motorized transportation needs with schools
- ❖ Staff discusses NPC non-motorized transportation needs
- ❖ Staff provides or joins bike, running, kayaking/ canoeing events to awareness to build interest, safety, awareness of new Plan.
- ❖ Meet w/ relevant organizations to discuss survey, non-motorized transportation needs

## 5) JUNE [Data Collection, Analyze, and Draft Plan Writing]

- End and Collect surveys from public, NPCs, various organizations
- Create new plan, maps, data

#### **6) JULY [Presentation to public of Draft Plan and data]**

---

- Finalize Draft Plan
- Closing meeting for general public to show draft plan, data, maps, etc.

#### **7 & 8) AUGUST & SEPTEMBER [Wrap-up and Adoption]**

---

- Public commenting period closes
- Final edits to Draft Plan
- Staff presents final draft plan to BAC, PC, and CC for final adoption